THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO.11943 OF 2007

Dated 25-06-2007

Between:

M/s A.Subbaramaiah & Co ..Petitioner

And

The Commercial Tax Officer …Respondent

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO.11943 OF 2007

O R D E R ***(Per the Hon'ble Sri Justice Bilal Nazki):***

Heard learned counsel for the parties.

In this writ petition several notices of demand have been challenged solely on the ground that these demands have been made without any assessment order having been passed and therefore, there is no basis for raising such demands.

Counter has been filed. In the counter, it is admitted that no assessment order was passed, but it is sought to be justified on the ground that the tax was levied on sales as disclosed in the returns. The learned counsel for the petitioner submits that sales were disclosed, but it was also claimed that the petitioner was exempted from payment of tax in terms of Rule 20(2) p of the Andhra Pradesh Value Added Tax Rules, 2005. It is admitted in the counter-affidavit that the petitioner has claimed exemption while filing his returns and it is sought to be justified in the counter-affidavit that the petitioner, as a matter of fact, was not entitled to any exemptions. But it remains a fact that no such order has been passed by the assessing authority. Since the petitioner has disclosed sales, but had claimed an exemption, it was incumbent upon the assessing authority to apply his mind and pass a speaking order after giving an opportunity of being heard to the

petitioner.

In this view of the matter, we set aside the demand notices impugned, remand the matter to the assessing authority who may pass appropriate orders after following the procedure as laid down under the law.

The writ petition is accordingly allowed. No order as to costs.

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(Bilal Nazki, J)

Dated 25th June, 2007

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(S.Ananda Reddy, J)

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